




Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 32128-187212	
	Application Number 10/690,498-Conf. #6037	Filed October 23, 2003	
	First Named Inventor Karlheinz Winter		
	Art Unit 1732	Examiner Mark EASHOO	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>58,094</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <div style="text-align: right;"> _____ Signature  _____ Ryan M. Flandro Typed or printed name  _____ (202) 344-4000 Telephone number  _____ February 5, 2007 Date</div>			
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			

<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.
---

DC2DOCS1/820163



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

**Karlheinz WINTER *et al.***

Application No.: 10/690,498

Confirmation No.: 6037

Filed: October 23, 2003

For: EXTRUSION OF PEROXIDE  
CROSSLINKABLE POLYMER  
PARTS

Art Unit: 1732

Examiner: Mark EASHOO, Ph.D.

Atty. Docket No.: 32128-187212

Customer No.

**26694**

PATENT TRADEMARK OFFICE

**NOTICE OF APPEAL & PRE-APPEAL BRIEF REQUEST FOR REVIEW**

***Mail Stop AF***

Commissioner for Patents

P.O. Box 1450

Alexandria, Va. 22313-1450

Sir:

In response to the Final Office Action dated November 3, 2006, Applicant respectfully submits this Pre-Appeal Brief Request for Review pursuant to the "New Pre-Appeal Brief Conference Pilot Program" (1296 Off. Gaz. Pat. Office 67 (July 12, 2005)) and the "Extension of the Pilot Pre-Appeal Brief Conference Program" (1303 Off. Gaz. Pat. Office 21 (February 7, 2006)). Applicant also submits herewith a Notice of Appeal pursuant 37 C.F.R. § 41.31(a)(1), the claims having been finally rejected. Authorization is hereby given to charge the fee of \$500.00 set forth in 37 C.F.R. § 41.20(b)(1), as well as any additional fees necessary, and to credit any overpayments, to our deposit account no. 22-0261, referencing our docket no. 32128-187212.

**I. INTRODUCTORY REMARKS**

Claims 1-29 are pending in the application. Claims 1-17 stand finally rejected. Claims 18-29 stand withdrawn. Reconsideration of the legal and factual basis of the rejection is respectfully requested.

**II. REJECTION OF CLAIMS 1-17 UNDER 35 U.S.C. § 103(A)**

On pages 2-4 of the Final Office Action dated November 3, 2006, claims 1-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 3,979,488 to Greenhalgh *et al.* ("Greenhalgh") in view of Official Notice taken by the Examiner. The rejection is respectfully traversed for at least the reasons previously presented by the Applicant. *See* Amendment filed August 25, 2006, Section IV, pages 8-11.

Furthermore, paragraph A of the "Response to Arguments" section on page 4 of the Final Office Action states that the Applicant's traversal of the Examiner's taking of Official Notice is not adequate. The Final Office Action also cites U.S. Patent No. 4,797,242 to Fukuda *et al.* to support the position that temperature control of extruders by heating/cooling units is well known. The Applicant respectfully disagrees with the taking of Official Notice for the reasons set forth on page 10 of the Amendment filed August 25, 2006. Moreover, the Applicant submits that Fukuda fails to support the Examiner's position for at least the following three reasons.

First, even assuming, *arguendo*, that Fukuda makes evident that external heating of an extruder is well known (*see* FIG. 9, heater 8), there is nothing in Fukuda to suggest that such heaters 8 are capable of controlling the temperature of the polymer in the extruder "to a value above the crystallite melting point of the polymer but below the crosslinking temperature" as recited in at least claim 1.

Second, there is no motivation or suggestion in either Greenhalgh or Fukuda, or in the knowledge available to one having ordinary skill in the art, to modify the mechanical heating technique of Greenhalgh or to combine the respective teachings. In paragraph B of the "Response to Arguments" section on page 4 of the Final Office Action, the Examiner points to column 5, line 65 – column 6, line 35 of Greenhalgh and states that "Greenhalgh then suggests the use of 'supplemental external heating.'" The Applicant respectfully notes, however, that this statement in Greenhalgh is made in the context of discussing heat curing means 16, which is positioned subsequent to forming die 58 in a direction of extrusion, and, thus, is not relevant to temperature control of the polymer in the extruder.

Third, even if the proposed combination were proper, nowhere does Greenhalgh or Fukuda (or the Examiner's taking of Official Notice) explicitly teach "a heat exchange to *cool* the extruder is provided by an *interior* heating/cooling unit" as recited in at least claim 3 (emphasis added).

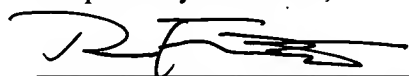
Reconsideration and withdrawal of the rejections are respectfully requested in view of the foregoing remarks as well as those set forth in Section IV on pages 8-11 of the Amendment filed August 25, 2006.

**III. CONCLUSION**

In view of the above, it is respectfully submitted that at least claims 1-17 are patentable over the prior art of record. Reconsideration and allowance of the present application is respectfully requested.

Date: February 5, 2007

Respectfully submitted,



Robert Kinberg, Reg. No. 26,924

Ryan M. Flandro, Reg. No. 58,094

VENABLE LLP

P.O. Box 34385

Washington, D.C. 20043-9998

Telephone: (202) 344-4000

Telefax: (202) 344-8300

Attorney/Representative for Applicant

RK/RMF:trs

DC2/820171v1